

Arrest, Search & Investigation

[*Utah v. Strieff*](#), 579 U.S. ____ (June 20, 2016). The attenuation doctrine applies when an officer makes an unconstitutional investigatory stop, learns that the suspect is subject to a valid arrest warrant, and proceeds to arrest the suspect and seize incriminating evidence during a search incident to that arrest. An officer stopped the defendant without reasonable suspicion. An anonymous tip to the police department reported “narcotics activity” at a particular residence. An officer investigated and saw visitors who left a few minutes after arriving at the house. These visits were sufficiently frequent to raise his suspicion that the occupants were dealing drugs. One visitor was the defendant. After observing the defendant leave the house and walk toward a nearby store, the officer detained the defendant and asked for his identification. The defendant complied and the officer relayed the defendant’s information to a police dispatcher, who reported that the defendant had an outstanding arrest warrant for a traffic violation. The officer then arrested the defendant pursuant to the warrant. When a search incident to arrest revealed methamphetamine and drug paraphernalia, the defendant was charged. The defendant unsuccessfully moved to suppress, arguing that the evidence was inadmissible because it was derived from an unlawful investigatory stop. He was convicted and appealed. The Utah Supreme Court held that the evidence was inadmissible. The Court reversed. The Court began by noting that it has recognized several exceptions to the exclusionary rule, three of which involve the causal relationship between the unconstitutional act and the discovery of evidence: the independent source doctrine; the inevitable discovery doctrine; and—at issue here—the attenuation doctrine. Under the latter doctrine, “Evidence is admissible when the connection between unconstitutional police conduct and the evidence is remote or has been interrupted by some intervening circumstance, so that the interest protected by the constitutional guarantee that has been violated would not be served by suppression of the evidence obtained.” (quotation omitted). Turning to the application of the attenuation doctrine, the Court first held that the doctrine applies where—as here—the intervening circumstance that the State relies on is the discovery of a valid, pre-existing, and untainted arrest warrant. It then concluded that the discovery of a valid arrest warrant was a sufficient intervening event to break the causal chain between the unlawful stop and the discovery of drug-related evidence on the defendant’s person. In this respect it applied the three factors articulated in *Brown v. Illinois*, 422 U. S. 590 (1975): the temporal proximity between the unconstitutional conduct and the discovery of evidence to determine how closely the discovery of evidence followed the unconstitutional search; the presence of intervening circumstances; and the purpose and flagrancy of the official misconduct. It concluded:

Applying these factors, we hold that the evidence discovered ... was admissible because the unlawful stop was sufficiently attenuated by the preexisting arrest warrant.

Although the illegal stop was close in time to [the] arrest, that consideration is outweighed by two factors supporting the State. The outstanding arrest warrant for ... arrest is a critical intervening circumstance that is wholly independent of the illegal stop. The discovery of that warrant broke the causal chain between the unconstitutional stop and the discovery of evidence by compelling [the] Officer ... to arrest [the defendant]. And, it is especially significant that there is no evidence that [the] Officer[’s] ... illegal stop reflected flagrantly unlawful police misconduct.